

Division of Securities
Utah Department of Commerce
160 East 300 South
P.O. Box 146760
Salt Lake City, Utah 84114-6760
Telephone: 801 530-6600
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

**BRYAN L. PENDLETON
CRD #4228593;**

Respondent.

**PETITION FOR ORDER
REVOKING LICENSE AND/ OR
BARRING LICENSEE**

Docket No. SD-05-0044

**TO: Bryan L. Pendleton
723 South 1850 East
Spanish Fork, Utah 84660**

Pursuant to the authority of § 61-1-6 of the Utah Uniform Securities Act ("Act"), the Utah Division of Securities, ("Division"), hereby petitions the Director of the Division, ("Director") to enter an Order, subject to the approval of the majority of the Securities Advisory Board, revoking the broker-dealer agent license of Bryan L. Pendleton, ("Respondent") and/or barring Respondent from association with a broker-dealer or investment adviser licensed in this state. In support of this petition, the Division alleges the following:

I. STATEMENT OF FACTS

- A. Bryan L. Pendleton is not currently licensed as a broker-dealer agent in Utah but was associated with World Group Securities, Inc. ("WGS") from April 12, 2002 through August 9, 2004.
- B. Prior to becoming associated with WGS, Pendleton was employed with WMA Securities, Inc. ("WMA"), WGS's predecessor from July 5, 2000 to April 12, 2002.
- C. Pendleton's Utah broker-dealer agent license was terminated on August 9, 2004.
- D. On March 4, 2005, NASD barred Pendleton from associating with any member of NASD in any capacity
- E. As of July 13, 2005, Pendleton had four disciplinary records disclosed on the CRD: 1) a 1999 bankruptcy; 2) a 2004 customer complaint alleging misrepresentation and unsuitable transactions; 3) an internal review relating to Pendleton's misappropriation of funds; and 4) NASD's regulatory action barring Pendleton from associating with any member firm.
- F. Pendleton has taken and passed the Series 6, Investment Company/Variable Contracts Representative Examination; the Series 26, Investment Company/Variable Contracts Principal Examination; and the Series 63, Uniform Securities Agent State Law Examination.
- G. On March 5, 2005, the Division received a copy of a Letter of Acceptance, Waiver and Consent ("AWC") between the NASD and Pendleton alleging that Pendleton had converted customer funds for his own use.

H. The Division's examination into Pendleton's conduct revealed the following:

Conversion

1. On or about December 24, 2002, Pendleton received a check in the amount of \$6,901.60 from Ralph Burton ("Burton") which was to be deposited into Burton's Western Reserve Life ("WRL") Freedom Premier annuity. Instead, Pendleton deposited this check into his own business bank account.
2. On or about July 2, 2003, Pendleton received a check in the amount of \$5,275.71 from Grant Hansen ("Hansen") which was to be deposited into Hansen's American Skandia XTra Credit SIX annuity. Instead, Pendleton deposited this check into his own business bank account.
3. On or about January 2004, Pendleton received a check in the amount of \$8,652.09 from Richard Spear ("Spear") which was to be deposited into Spear's WRL Freedom Elite Builder variable universal life contract. Instead, Pendleton deposited this check into his own business bank account.
4. In a May 7, 2004 letter to Dan Tront ("Tront"), WGS Compliance Examiner, Pendleton stated,

"On or around July of 2003, Mr[.] & Mrs[.] Grant Hansen conducted business (a 401K rollover). Two different checks were involved since the client had received funds from previous employer's fund. One check was pulled back out of their personal account (approx[.] 5200.) and given in the form of a cashiers check to be added to the Am[erican] Skandia account. This is the money that was deposited into my business account. No knowledge from any bank employee was involved. They just didn't check the deposits that closely. Two others occasions this occurred. One approx. in the amount of 6900 from Ralph Burton (also additional money to be added to his WRL annuity account (I can't recall the actual time frame, but the check copy is in the customer file, so I could

get it reimbursed with interest asap. The other occurrence was from a 72t distribution of a WRL annuity (approx. 8600) from Richard Spear around Jan[.] 2004 that should have been put into his WRL VUL.”

5. In an August 20, 2004 letter to NASD Special Investigator, Martha Wiseman (“Wiseman”), Pendleton reiterated the above statement with only one slight variation.
6. In a June 15, 2004 letter to NASD, WGS stated,

“On April 29, 2004, the OSJ [Office of Supervisory Jurisdiction] Manager informed the Regional OSJ Manager and Regional Compliance Manager (RCM) that he had been contacted by a customer about having not received confirmation of a transaction processed by Mr. Pendleton. He provided the OSJ Manager with a copy of the cancelled check for the transaction. The account information stamped on the back of the check was for the account of Mr. Pendleton. In a personal interview with both the ROSJ Manager and the RCM, Mr. Pendleton admitted to depositing this check and checks of other WGS clients into his personal bank account ...Based on the copy of the cancelled check provided by the customer and Mr. Pendleton’s signed written statement, it appears that Mr. Pendleton deposited checks, intended for cutstomer’s [sic] accounts, in his personal bank account.”
7. On July 16, 2004, WGS issued three checks totaling \$20,829.40: two made payable to WRL and one made payable to American Skandia.
8. According to WGS, these were checks “to the product providers reimbursing the accounts of Richard Spear, Ralph Burton and Grant Hansen, retroactive to the date the original transaction should have occurred.”
9. It appears Pendleton reimbursed WGS for the restitution WGS paid to Burton, Hansen, and Spear.
10. In a July 14, 2004 letter to Tront, Pendleton states, “The enclosed check for

\$22,911.75 represents my desire for restitution on the accounts under current investigation along with my deepest regrets and apology. I have included an additional ten percent to, hopefully, cover/reimburse what the clients didn't gain while the money was not in their accounts. If this amount is not found to be adequate by your calculations, please let me know."

11. WGS's Written Supervisory Procedures ("WSPs") state:

A Field Representative must not, under any circumstances: 1) commingle a client's funds with his own or those of any other person...4) deposit client funds into his own personal accounts...

Borrowing from Clients

12. On November 21, 2003, Pendleton signed a promissory note to borrow \$15,000 from Alene Zeeman. At the time, Zeeman was one of Pendleton's WGS clients.
13. Pendleton also borrowed \$20,000 from Jon Farris who was one of his WGS clients.
14. In a May 7, 2004 letter to Tront, Pendleton stated,
- "During the four (4) plus years since joining this business I have had financial needs that were not being met. On two different occasions money was given from agents who I had been doing splits or training with. One was Andrew Moleff and the other was Larry Newell. The amount from Andrew was approx. 3500. and the amount from Larry was 12,500. No contracts were signed and the arraignment [sic] was to reimburse as soon as possible with interest, based on the length of time it took to get fully paid back. These transactions where [sic] conducted as friend helping friend. To date the money has not been repaid. Also two (2) clients/friends Jon Farris and Alene Zeeman loaned me money under the same similar arraignments [sic] as the [agents] stated above. Jon Farris approx. 20,000 which I have been paying a monthly interest payment of 300. to him. Alene's amount was

15,000. This debt has not been repaid yet. I was planning to repay the loan thru a future transaction of hers.”

15. In a letter dated June 15, 2004, WGS stated Pendleton “also indicated that he borrowed money from three WGS registered representatives.”
16. In an August 20, 2004 letter to Wiseman, Pendleton stated, “As far as the personal loans. No contracts were signed and the arraignment [sic] was to reimburse as soon as possible with interest, based on the length of time it took to get fully paid back. These transactions where [sic] conducted as friend helping friend. To date the money has not been totally repaid. Jon Farris and Alene Zeeman loaned me money...”
17. In a letter dated October 8, 2004, WGS stated it was enclosing “a copy of documentation submitted by Alene Zeeman evidencing her loan to Mr. Pendleton. We have not yet received any confirmation from Jon Farris.”

Unregistered Security

18. Pendleton issued one written promissory note to Zeeman. Pendleton also entered into three other oral promissory transactions: one with Andrew Moleff for approximately \$3,500 plus interest; one with Larry Newell for approximately \$12,500 plus interest; and one with Farris for approximately \$20,000 plus interest.
19. A review of the Division’s STRES database evidences that Pendleton never registered or notice filed any of the transactions discussed above with the Division.

Selling Away

20. Selling away is the act of effecting securities transactions that are not recorded on the regular books or records of an agent's broker-dealer (i.e. the transaction is executed outside or away from the broker-dealer). If a broker-dealer agent is engaged in selling away, the broker-dealer is unable to properly monitor and supervise these activities to ensure compliance with applicable securities laws.
21. Pendleton issued at least one written promissory note and entered into at least three other oral promissory transactions which are securities as defined under §61-1-13(24)(a) of the Act. These transactions were not recorded on WGS's books and records.

False Form U4

22. On May 27, 2003, Pendleton requested and received approval for two outside business activities: one as a loan originator for Lone Peak Financial, and one as president/owner of B.S. Ent.
23. At the time of Pendleton's termination from WGS in August 2004, no outside business activities were disclosed on Pendleton's Form U4.
24. A review of all of Pendleton's Form U4 amendment filings since Pendleton's outside business activities were approved showed that none of the above activities were disclosed on Pendleton's Form U4.

II. GROUNDS FOR REVOCATION AND/OR BAR

**(Dishonest or Unethical Business Practices under Section
R164-6-1g(D)(1) of the Utah Administrative Code)**

25. Section 61-1-6(2) of the Act provides that the Director may revoke a license or bar a licensee from employment with a licensed broker-dealer or investment adviser in this state if the licensee (b) has willfully violated or willfully failed to comply with any provision of this chapter or (g) has engaged in dishonest or unethical practices in the securities business.”
26. Under section R164-6-1g(D)(1) of the Utah Administrative Code (“UAC”) it is a dishonest or unethical practices to “engage in the practice of lending or borrowing money or securities from a customer. . .”
27. WGS’s written supervisory procedures also prohibits a field representative from “borrowing money or securities from a field representative, a World Financial Group Associate or a client unless such individual is an immediate family member.”
28. By borrowing money from clients Zeeman and Farris, Pendleton violated R164-6-1g(D)(1) of the UAC as well as WGS policies and procedures.

(Unregistered Security under § 61-1-13(24)(a) of the Act)

29. Pursuant to §61-1-13(24)(a) of the Utah Uniform Securities Act (“Act”), a security is defined as any “(i) note;...[or] (vi) evidence of indebtedness.”
30. Pursuant to §61-1-7 of the Act, “It is unlawful for any person to offer or sell any security in this state unless it is registered under this chapter, the security or transaction is exempted under Section 61-1-14, or the security is a federal covered security for which a notice filing has been made pursuant to the provisions of

Section 61-1-15.5.”

31. By issuing a promissory note to Zeeman and by entering into three other oral promissory transactions which were not registered or notice filed, Pendleton violated § 61-1-7 of the Act.

**(Selling Away under §61-1-1 of the Act, R164-6-1g(D)(2)
and (7) of the UAC)**

32. R164-6-1g(D)(2) of the UAC states that it is a dishonest or unethical business practice for a broker-dealer agent to “[effect] securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, in the case of agents of broker-dealers, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction.”

33. Rule 3040 of the NASD Conduct Rules states:

Prior to participating in any private securities transaction, an associated person shall provide written notice to the member with which he is associated describing in detail the proposed transaction and the person’s proposed role therein and stating whether he has received or may receive selling compensation in connection with the transaction... Private securities transaction shall mean any securities transaction outside the regular course or scope of an associated person’s employment with a member... Selling compensation shall mean any compensation paid directly or indirectly from whatever source in connection with or as a result of the purchase or sale of a security, including, though not limited to, commissions; finder’s fees; securities or rights to acquire securities; rights of participation in profits, tax benefits, or dissolution proceeds, as a general partner or otherwise; or expense reimbursements.

34. R164-6-1g(D)(7) of the UAC states that it is a dishonest or unethical business practice for a broker-dealer agent to “[engage] in conduct specified in subsection[]

(C)(28).”

35. Subsection (C)(28) of the UAC states that it is a dishonest or unethical business practice for a broker-dealer to “[fail] to comply with any applicable provision of the Conduct Rules of the NASD...”
36. WGS’s Field Representative Agreement states that a “Representative shall not: ...(iv) participate in any private securities transaction without the prior written approval of WGS.”
37. By engaging in securities transactions not recorded on the books and records of WGS, Pendleton violated § 61-1-1 of the Act, R164-6-1g(D)(2) and (7) of the UAC, NASD Conduct Rule 3040 and WGS’s policies and procedures.

(False Form U4 under § 61-1-5(4) of the Act and R164-4-3(E)(1) of the UAC)

38. Pursuant to §61-1-5(4) of the Act, “If the information contained in any document filed with the division is or becomes inaccurate or incomplete in any material respect, the licensee or federal covered adviser shall promptly file a correcting amendment if the document is filed with respect to a licensee...unless notification of the correction has been given under Section 61-1-3.”
39. Pursuant to §R164-4-3(E)(1) of the Code, “At a time when a material change occurs...(b) a broker-dealer agent must promptly file amendments to NASD Form U-4...with the CRD”
40. By failing to disclose two outside business activities on his Form U4, Pendleton violated § 61-1-5(4) of the Act and R164 -4-3(E)(1) of the UAC.

(Securities Fraud under § 61-1-1 of the Act)

41. Section §61-1-1 of the Act states:

It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly to:

- (1) Employ any device, scheme, or artifice to defraud;
- (2) Make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
- (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.”

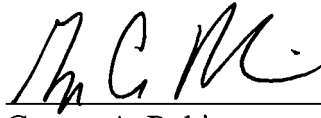
42. Based on the Division’s findings regarding Pendleton’s conduct as it related to conversion of client funds, borrowing money from clients, unregistered securities, selling away, and filing a false Form U4, Pendleton engaged in acts, practices, or courses of business which operated as a fraud or deceit in violation of §61-1-1 of the Act.

III. REQUEST FOR RELIEF

The Division requests that the Director enter an order pursuant to Utah Code Ann. § 61-1-6 of the Act, revoking Respondent’s broker-dealer agent license and/or barring Respondent from associating with any broker-dealer or investment adviser licensed in this state. The Division also requests that Respondent be ordered to pay a fine of \$50,000 at hearing.

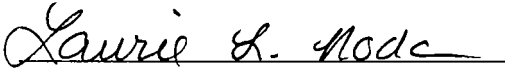
Dated this 3 day of Aug., 2005.

UTAH DIVISION OF SECURITIES

A handwritten signature in black ink, appearing to read "G. A. Robison", written over a horizontal line.

George A. Robison
Director of Licensing

Approved:

A handwritten signature in black ink, appearing to read "Laurie L. Noda", written over a horizontal line.

Laurie L. Noda
Assistant Attorney General

Division of Securities
Utah Department of Commerce
160 East 300 South
P.O. Box 146760
Salt Lake City, Utah 84114-6760
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**BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF:

**BRYAN L. PENDLETON
CRD # 4228593;**

Respondent.

**NOTICE OF AGENCY
ACTION**

Docket No. SD-05-0044

THE DIVISION OF SECURITIES TO THE ABOVE-NAMED RESPONDENTS:

The purpose of this Notice of Agency Action is to inform you that the Division hereby commences a formal adjudicative proceeding against you as of the date of the mailing of this Notice. The authority and procedure by which this proceeding is commenced are provided by Utah Code Ann. §§63-46b-3 and 63-46b-6 through 11. The facts on which this action is based are set forth in the foregoing Petition for Order Revoking License and/or Barring Licensee.

Within thirty (30) days of the date of this notice, you are required to file a written response with the Division. The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Petition.

After your response is filed, a hearing will be set at a date and time agreed upon by the parties.

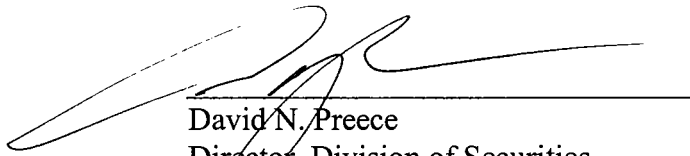
If you fail to file a written response, as set forth herein, or fail to appear at the hearing, you will be held in default, an Order to Cease and Desist will enter, and a fine will be imposed against you in accordance with Utah Code Ann. §64-46b-11.

The presiding officer in this case is David N. Preece, Director, Division of Securities, 160 East 300 South, P.O. Box 146760, Salt Lake City, UT 84114-6760, telephone (801) 530-6600. The Administrative Law Judge will be Clinton D. Jensen, Utah Department of Commerce, 160

East 300 South, P.O. Box 146701, Salt Lake City, UT 84114-6701, telephone (801) 530-6021. At such hearing, the Division will be represented by the Attorney General's Office, 160 East 300 South, P.O. Box 140872, Salt Lake City, UT 84114-0872, telephone (801) 366-0310. At the hearing, you may appear and be heard and present evidence on your behalf.

You may attempt to negotiate a settlement of the matter without filing an answer or proceeding to hearing. Should you so desire, please contact the Utah Attorney General's Office. Questions regarding the Petition and Notice of Agency Action should be directed to Laurie Noda, Assistant Attorney General, 160 E. 300 South P.O. Box 140872, Salt Lake City, UT 84114-0872, telephone (801) 366-0310.

Dated this 10th day of August, 2005.



David N. Preece
Director, Division of Securities
Utah Department of Commerce

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of August 2005, I mailed, by certified mail, a true and correct copy of the forgoing Petition For Order Revoking License and/or Barring Licensee to:

Bryan L. Pendleton
723 South 1850 East
Spanish Fork, UT 84660

CERTIFIED MAIL: 7004 1160 0004 1730 7030



Executive Secretary